

CHANGE WITHOUT REGULATORY EFFECT UNDER
CALIFORNIA CODE OF REGULATIONS, TITLE 1, SECTION 100

Statement of Explanation

Title 18. Public Revenues

Rule 474, Petroleum Refining Properties

A. Factual Basis

The State Board of Equalization (Board) adopted California Code of Regulations, title 18, section (Property Tax Rule) 474, *Petroleum Refining Property*, to provide that, consistent with California Constitution article XIII, section 1, and article XIII A (which contains Proposition 13 as amended by Proposition 8), Revenue and Taxation Code section 51, and Property Tax Rules 324 and 461, refinery property consisting of land, improvements and fixtures is rebuttably presumed to be a single appraisal unit in determining Proposition 8 declines in value below the Proposition 13 adjusted base year value for property tax valuation purposes.

In *Western States Petroleum Association v. Board of Equalization* (2013) 57 Cal.4th 401, the California Supreme Court held that the adoption of Property Tax Rule 474 did not exceed the Board's rulemaking authority because the rule is consistent with applicable constitutional and statutory provisions as well as the long-standing valuation principle that the proper appraisal unit is the collection of assets that people in the marketplace normally buy and sell as a single unit. Nevertheless, the California Supreme Court also affirmed the Court of Appeal's judgment invalidating Property Tax Rule 474 on procedural grounds because the Board failed to provide an adequate assessment of the proposed rule's economic impact during the rulemaking process, as required by the Administrative Procedure Act.

Therefore, the Board proposes to repeal Property Tax Rule 474 under California Code of Regulations, title 1, section (Rule) 100 and thereby delete it from the California Code of Regulations. The proposed deletion of Property Tax Rule 474 from the California Code of Regulations is appropriate for processing under Rule 100 because Rule 100, subdivision (a)(3), specifically provides that deleting a regulatory provision that has been held invalid in a judgment that has become final, entered by a California court of competent jurisdiction, is a change without regulatory effect.

B. Proposed Changes

Rule 100 changes are proposed to repeal Property Tax Rule 474 and delete it from the California Code of Regulations.

TEXT OF PROPOSED CHANGES

474. Petroleum Refining Properties.

~~(a) The provisions of this rule apply to the valuation of the real property, personal property, and fixtures used for the refining of petroleum.~~

~~(b) General.~~

~~(1) The unique nature of property used for the refining of petroleum requires the application of specialized appraisal techniques designed to satisfy the requirements of article XIII, section 1, and article XIII A, section 2, of the California Constitution. To this end, petroleum refineries and other real and personal property associated therewith shall be valued pursuant to the principles and procedures set forth in this section.~~

~~(2) Notwithstanding any other provision in this section, any appropriate valuation method described in section 3 of title 18 of this code may be applied in the event of a change in ownership in a petroleum refining property.~~

~~(c) Definitions. For the purposes of this section:~~

~~(1) "Petroleum refining property" means any industrial plant, including real property, personal property, and fixtures, used for the refining of petroleum, as identified in Standard Industrial Classification (SIC) System Codes 2911 and 2992, or North American Industry Classification System (NAICS) Codes 32411 and 324191.~~

~~(2) "Appraisal unit" consists of the real and personal property that persons in the marketplace commonly buy and sell as a unit.~~

~~(d) Declines in Value. For the purposes of this section:~~

~~(1) Declines in value of petroleum refining properties will be determined by comparing the current lien date full value of the appraisal unit to the indexed base year full value of the same unit.~~

~~(2) The land, improvements, and fixtures and other machinery and equipment classified as improvements for a petroleum refining property are rebuttably presumed to constitute a single appraisal unit, except when measuring declines in value caused by disaster, in which case land shall constitute a separate unit.~~

~~(3) In rebutting this presumption, the assessor may consider evidence that:~~

~~(A) The land and improvements including fixtures and other machinery and equipment classified as improvements are not under common ownership or control and do not typically transfer in the marketplace as one economic unit; or,~~

~~(B) When the fixtures and other machinery and equipment classified as improvements are not functionally and physically integrated with the realty and do not operate together as one economic unit.~~

~~Note: Authority cited: Section 15606(c), Government Code. Reference: Article XIII Section 1, and Article XIII A, Section 2, California Constitution; and Sections 51 and 110.1, Revenue and Taxation Code.~~